

# **EXHIBIT 2**

**Federal Defenders**  
**OF NEW YORK, INC.**

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*Attorney-in-Charge*

**MEMORANDUM**

To: Jeff Oestericher (Chief, Civil Division, SDNY); Nicole McFarland (Supervisory Attorney, MCC)  
Fr: Deirdre D. von Dornum, Attorney-in-Charge, Federal Defenders of New York  
Date: December 30, 2020  
Re: Concerns Re Attorney Safety Based On MCC Staff Failure To Follow COVID Protocols

I write to formally document issues I observed during a legal visit on the morning of December 30, 2020, at MCC New York that raise concerns regarding attorney health and safety during in-person legal visits.

I arrived at 8:45 a.m., as scheduled by the Legal Department of MCC, for a legal visit.

In the extremely small vestibule, an officer was seated at a table. There was no way for us to stand six feet apart. He took my temperature with a digital temporal thermometer and asked me to fill out a screening form. The form was clearly written for staff members: it asked about several COVID symptoms, and then asked whether the staff member had received the COVID-19 vaccine, and if so, the date the vaccine had been administered. There were no questions on the form about exposure to COVID-19 or about recent travel. As I was filling out the form, a third person entered the small vestibule (another legal visitor) and also stood in the small space.

As I entered the small front lobby of the MCC, I heard an officer (his name tag read Mateo) saying how much he hates wearing a mask because it is so hard to breathe wearing it, and that he hopes as soon as he is vaccinated, he can stop wearing it entirely. Officer Mateo was wearing a thin surgical mask only covering his mouth, not his nose. He stood about a foot away from me and scanned my papers through the metal detector, as he explained to me how he has asthma, so wearing a mask makes it difficult to breathe.

Several other staff members were standing in the lobby area, as well, talking to one another. The lobby area is small. It is approximately 10' x 20', and part of that space is taken up by the metal detector in the middle of the area (which each visitor must walk through in order to enter the facility); the x-ray belt, which each visitor's belongings must pass through; and a table with bins on it. One of the staff members standing in the lobby (near 82 door) was a light-skinned Black woman in her 30s, well made up, who had no mask at all. Her name was not visible on her uniform. After a couple minutes, she went through 82 door and walked towards the Executive Offices. The officer in the booth (only final letters of name visible "ole") had his mask around his chin as he handed me the attorney tag and keys and later stamped my hand. A fourth officer (whose name tag read Bonilla) came out from 82 door and stood talking to the other officers for a bit. His mask was under his nose. He stood about three feet away from me, and about a foot away from the other officers. The second legal visitor also came into the lobby to be processed.

After I was processed through and had my hand stamped, I stood in the internal waiting area for about 10 minutes. The lights were off and it was extremely dirty.

The officer who took me upstairs had his mask on, as did the officer running the elevator, who, based on his uniform, was from another facility. I asked the officers if people from other facilities were helping out at MCC. They said yes: because the institution is severely short-staffed, officers from Danbury, Raybrook, and Fort Dix are working shifts at MCC. I was alarmed, in particular, to hear that people from Fort Dix are working at MCC, given the massive outbreak there (currently 295 cases reported on the BOP national website).

When I went into the visiting room, no other legal visitors were there. The officer told me to take Room 4, and then noted that the room has no air circulation, and offered to prop the door open for me with a chair.

After I came downstairs and was in the hallway in front of the social visitor elevators, the same light-skinned Black woman staff member passed me. She now had a mask, on her mouth only (not covering her nose). The officer sitting in the booth, with the door open, still had his mask under his chin, as did Officer Mateo out in the lobby.

Although I understand that the Warden has ordered that all staff members wear masks at all times while in the facility, I did not at any point see signs posted regarding mask wearing.